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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/581,341	06/02/2006	Jean-Pierre Klein	0598-1010	6229
466 7590 09/29/2009 YOUNG & THOMPSON 209 Madison Street Suite 500 ALEXANDRIA, VA 22314			EXAMINER KENNY, DANIEL J	
			ART UNIT 3633	PAPER NUMBER
			MAIL DATE 09/29/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/581,341

Applicant(s)

KLEIN, JEAN-PIERRE

Examiner

DANIEL KENNY

Art Unit

3633

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

The drawings are objected to because Fig. 1 (essentially at the location where the two sheet metal screws attach the slide to the upper rail) gives the appearance that the slide and upper rail are not separate elements, which is not apparently a disclosed embodiment. The drawings are additionally objected to because it is insufficiently clear how Fig. 1 represents a partition (for example, that of claim 14) as represented by paragraph 57. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. A partition is claimed in claim 9, yet it is unclear how the device of claim 1 fits into the partition. For example, is claim 9 drawn to a kit or to an assembled structure?

Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim recites a side edge and a rail associated with "each of said substantially vertical side edge". Is it one side edge or greater than one that is being claimed?

The claims will be examined as best understood.

Claim Rejections - 35 USC § 102

Claims 1, 2, 4, and 6-14 - are rejected under 35 U.S.C. 102(b) as being anticipated by Bohnsack (3,381,438).

Claim 1 – Bohnsack discloses a device (Fig. 4) comprising:

a slide (8) of profiled section, the slide capable of being joined to an upper rail (62) and having arms (vertical segments located adjacent 71 and 72) forming a substantially U-shaped section; and

a top runner (65) capable of being fixed to a ceiling and capable of being partially housed in the slide between the arms of the U-shaped section of the slide, wherein the slide and top runner are each mounted to move relative to each other in a vertical direction, and wherein an inherently reversible snap-fitting means (col. 5, line 25) are provided between the slide and the top runner.

Claim 2 - The top runner is in the form of a rail of profiled section comprising two side flanges (71, 72) extending parallel to the arms of the U-shaped section of the slide and within those arms.

Claim 4 - The slide comprises at each free end of the arms of the U-shaped section a rim (50) extending outwardly of the U of the U-shaped section, substantially perpendicular to the arms of the U.

Claim 6 - The top runner is a member of profiled section comprising two side flanges slidably mounted between the arms of the U-shaped section of the slide and also a housing (66), disposed between the side flanges, on the opposite side from the slide, and capable of receiving a material having fire-retardant properties.

Claims 7 and 8 - A U-section anchorage reinforcing member (70) transversely disposed in the top runner.

Claim 9 – Bohnsack discloses a partition framework (Fig. 1) comprising:
a substantially horizontal lower rail (84);
a substantially horizontal upper rail (62), said lower rail and said upper rail capable of being connected to uprights (2, 6);
a covering (3,4,5) fixed to said upper and lower rails; and
the device according to claim 1.

Claim 10 - An upper portion of the covering is fixed so as not to extend beyond the slide forming a free space (space above the inwardly extending protrusions on the slide) between the covering and a ceiling, said space capable of being filled by a joint of elastic material.

Claim 11 - The covering boards are mounted so as to be floating with respect to the lower rail (the boards are "floating" with respect to the lower rail as broadly recited, as the boards are not attached to the lower rail).

Claim 12 – A flexible mastic joint (90, seal) is provided between a floor and the framework covering.

Claim 13 - An anchorage reinforcing member (83, bolt) is disposed transversely in the lower rail.

Claim 14 – Bohnsack discloses all the claimed elements as described above, and is capable, as best understood by the claims, of being mounted on a wall rather than a ceiling.

Claim Rejections - 35 USC § 103

Claim 3 - is rejected under 35 U.S.C. 103(a) as being unpatentable over Bohnsack in view of Balfanz (3,665,837).

Balfanz (Fig. 1) discloses that it is old in the art to have each of the side flanges of a top runner (1) and each of the arms of a U-shaped section of a slide (25) comprise a boss (22, 23) projecting inwardly respectively from the flanges and from the arms, the bosses of the slide being adapted, when in resting position, to locate in the bosses of the top runner. It would have been obvious to one of ordinary skill in the art at the time the present invention was made to use bosses in Bohnsack for ease of assembly.

Claim 5 - is rejected under 35 U.S.C. 103(a) as being unpatentable over Bohnsack in view of Lewis (3,292,328).

Lewis (Fig. 1) discloses that it is old in the art to have an elastic joint (56) locatable between a rim of a slide and a ceiling on which a top runner is fixed.

It would have been obvious to one of ordinary skill in the art at the time the present invention was made to so locate such a joint on Bohnsack for panel stability.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL KENNY whose telephone number is (571)272-9951. The examiner can normally be reached on Mon-Fri. 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571 272 6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. K./
Examiner, Art Unit 3633

/Jeanette E Chapman/
Primary Examiner, Art Unit 3633